

Remarks/Arguments

The Rejection of Claim 23 Under 35 U.S.C. 112, Second Paragraph

The Examiner rejected Claim 23 under 35 U.S.C. 112, second paragraph.

The Examiner stated: "As per claims 23, lines 17-19, "to or above that idle speed and where an engine output as well as selectable gear ratios of the drivetrain (122) and the regulatory function of the idle controller are such that at least in case of a selectable gear ratio". It is unclear and indefinite of the phrase above in the claim, how is this limitation related to the phrase before and after that, what to do with "where an engine output as well as selectable gear ratios of the drivetrain (122) and the regulatory function of the idle controller are such that at least in case of a selectable gear ratio" in related to the invention. Explanation, amendment, or correction is required."

The entire clause containing the above excerpt recites: "where an engine output as well as selectable gear ratios of the drivetrain (122) and the regulatory function of the idle controller are such that at least in case of a selectable gear ratio and if the drivetrain (122) is engaged, the engine torque could be raised to a value that is such that in case of the selectable gear ratio, the braking torque of the brake (140) would not suffice to bring about a deceleration of the device (100)."

The clause in question is not directly related to the previous or following clauses – it is introducing a new function/aspect. The clause states that when a gear is selected and engaged, the engine output, the gear ratios and the function of the idle controller (engine speed control) are such that sufficient engine torque is generated to prevent deceleration due to the brake.

To address the Examiner's concerns and to make the meaning of the clause clearer, the above clause has been amended as follows: "where an engine output as well as selectable gear ratios of the drivetrain (122) and the regulatory function of the idle controller are such that at least in case of a selectable when a gear ratio is selected and if the drivetrain (122) is engaged, the engine torque could be raised to a value ~~that is such that in case of the selectable gear ratio,~~

the braking torque of the brake (140) would not suffice to bring about a deceleration of the device (100).”

The Examiner also stated: “Claim 23 recites the limitations “the engine torque” in line 15; “the engine speed” in line 16; “the regulatory function of the idle controller” in line 18; and “the braking torque” in line 21. There are insufficient antecedent basis for these limitations in the claim.”

Applicants have amended Claim 23 to rectify the antecedent basis problems noted by the Examiner.

The Examiner further stated: “Also, what is “the regulatory function of the idle controller” in line 18.”

Paragraphs [0063] and [0064] of the written description for the instant application describe the idle controller. To address the Examiner’s concerns and to make the meaning of the clause clearer, the Claim 23 has been amended as follows: “where an engine output as well as selectable gear ratios of the drivetrain (122) and ~~the~~ a regulatory function of the idle controller controlling the engine speed are such that ~~at least in case of a selectable~~ when a gear ratio is selected and if the drivetrain (122) is engaged,”

Applicants respectfully submit that Claim 23 is compliant with 35 U.S.C. 112, second paragraph.

Applicants courteously request that the rejection be removed.

Claim Allowance

Applicants gratefully acknowledge the allowance of Claims 1-5, 21, and 22.

Conclusion

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

/Chester Paul Maliszewski/
Chester Paul Maliszewski
Registration No. 51,990
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406
Telephone No. 716-626-1564

CPM/
Dated: August 12, 2009